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EXAMINER

SALCE, JASON P

ART UNIT

PAPER NUMBER

2421

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11/23/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/008,399	Applicant(s) RODRIGUEZ, ARTURO A.	
	Examiner Jason P. Salce	Art Unit 2421	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16, 20-24, 27-35, 47, 48 and 116 is/are pending in the application.
- 4a) Of the above claim(s) 49-65, 69-74, 76-84 and 112-115 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16, 20-24, 27-35, 47, 48 and 116 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Claims 49-65, 69-74, 76-84 and 112-115 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 9/7/2010.

Information Disclosure Statement

The information disclosure statements (IDS) submitted on 2/4/2020, 5/21/2010 and 8/17/2010 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements have been considered by the examiner.

Response to Arguments

Claims 1-16, 20-24, 27-35, 47-48 and 116 are pending. Claims 49-65, 69-84 and 112-115 are withdrawn from consideration.

Applicant's arguments with respect to claims 1-16, 20-24, 27-35 and 47-48 have been considered but are moot in view of the new ground(s) of rejection.

The Examiner notes that in regards to amended claim 1, although claims 44-46 have been indicated as incorporated into independent claim 1, the Examiner notes that

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the claim limitations "subsequent to determining the overall user preference score" was not found in previous claims 44-46, therefore the scope of independent claim 1 has changed.

Herz discloses receiving user input requesting television functionality subsequent to determining the overall user preference score, where the television functionality comprises tuning to a user identified television service (**see Column 29, Line 39 through column 30, Line 19 for using passive feedback to determine viewing habits of the viewer and updating customer profiles, which tracks what programs the user has selected/tuned**), where the user identified television service corresponds to at least one of the plurality of viewing parameters (**see Column 30, Line 49 through Column 34, Line 11 for updating customer profiles prior to calculating the agreement matrix, wherein Column 31, Line 1 through Column 33, Line 32 discloses the different characteristic variables associated with each selected movie "P", therefore corresponding to one of the viewing parameters**).

Herz also discloses providing the user with a result that is responsive to the user input and to the overall user preference score (**see Column 46, Lines 43-59 for presenting a program guide of selected programs based on the selected movie "P" and the overall user preference score calculating using the agreement matrix**).

Herz fails to teach that the result comprises not tuning to the user identified television service. Herz only discusses calculating an agreement matrix based on the user's viewing habits and using the agreement matrix to determine a list of programs to

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present to the viewer (**in the form of an electronic program guide**) for tuning (**see Column 46, Lines 43-59**). Herz is silent if a selected program that is recorded in the viewing habits (**which may not have been selected for a long period of time**) is excluded from the list of programs presented based on the calculated agreement matrix.

Maissel discloses not tuning to a user identified television service/channel by excluding channels (**from a program guide that allows the viewer to tune to a channel**) from a customer's profile, wherein the channels have been viewed, but not viewed for a specified period of time (**see Column 17, Line 5 through Column 18, Line 28**).

At the time the invention was made, it would have been obvious for a person of ordinary skill in the art to modify the passive creation/updating of customer profiles, as taught by Ukai and Herz, using the surfing detection functionality, as taught by Maissel, for the purpose of providing an improved electronic program guide for use in a television system (**see Column 2, Lines 55-56 of Maissel**).

Referring to the arguments regarding 47-48, see the new grounds of rejection below.

Applicant's arguments filed 6/1/2010 regarding claim 116 have been fully considered but they are not persuasive.

Applicant argues that Ukai and Herz fail to teach "**tracking a plurality of viewing parameters corresponding to services that are provided to a user, at least**

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a first portion of the viewing parameters overlapping in content a second portion of the viewing parameters, the viewing parameters comprising a television service, a type of television service, a television instance, and a type of television instance". Applicant notes that the Examiner appears to equate "X TIME" to both a service and a television instance. The Examiner respectfully disagrees.

The Examiner states that the viewing parameters comprise a television service (see Figure 3 for Column 302 "Program Name" having the program "X TIME"), a type of television service (see Figure 3 for the table designating program "X TIME" further designates a "GENERAL NEWS" type of television service, which is illustrated in rows 305 or 309), a television instance (see Figure 3 for the table designating program "X TIME" further designates a television instance in the form of a broadcasting mode that is "SIGN LANGUAGE") and a type of television instance (see Figure 3 for the table designating program "X TIME" further designates a television instance in the form of a sound and language field that is **Bilingual**). The Examiner notes that the fields in table 300 of Figure 3 can be used interchangeably to meet the broad claim limitations. For example, a television service can be the channel/channel name, the type of television service can be the program name, the television instance can be the year/month/date/time/day and the type of television instance can be the genre. Therefore, the rejection stands.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims, 1-9, 11-16, 20-24, 27-35, 47-48 and 116 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ukai et al. (U.S. Patent No. 7,096,486) in view of Herz et al. (U.S. Patent No. 5,758,257) in further view of Maissel et al. (U.S. Patent No. 6,637,029).

Referring to claim 1, Ukai discloses tracking a plurality of viewing parameters corresponding to services that are provided to a user (**see Figure 3 and Column 5, Lines 11-28 for storing/tracking a plurality of viewing parameters (*program name, date and time, genre, time period, language and preference measure*) corresponding to services that are provided to the user (*note that a language and genre and the time a program is broadcasted is representative of a television service provided to the user*)**)).

Ukai also discloses determining a user preference for each of the plurality of viewing parameters (**see Figure 4 and Column 5, Lines 29-39 for the system determining a view time period which represents a user preference that is determined by monitoring how long a user watches a program and recording that time in memory**)).

Ukai also discloses tracking the user preferences by assigning a score to each of the plurality of viewing parameters (**see Figure 5 and Column 5, Lines 40-55 for assigning a view score to each program's user preferences being tracked**).

Ukai also discloses determining an overall user preference score for the plurality of tracked viewing parameters based on a linear combination of the scores associated with each of the plurality of tracked viewing parameters for the user (**see Figure 5 for the program view measure 504 and Column 5, Lines 40-55 for the program view measure 504 being calculated based on a linear combination of the scores associated with each of the plurality of tracked viewing parameters for the user**).

Ukai also discloses receiving user input requesting television functionality (**see Figure 6 and Column 6, Lines 2-7 for receiving a user input everytime the user inputs a request to view a program**).

Ukai also discloses providing the user with a result that is responsive to the user input and the overall user preference score (**see Figure 17 and Column 15, Lines 21-23 for displaying an EPG that displayed programs that are preferred by the user based on the preferences scores determined by the scoring of the programs, where the result is shown by graphic 1704**).

Ukai fails to teach weighting each of the viewing parameters and determining an overall user preference score for the plurality of tracked viewing parameters based on a linear combination of the weighted scores associated with each of the plurality of tracked viewing parameters for the user.

Herz also discloses assigning scores to viewing parameters (**see Column 11, Line 30 through Column 15, Line 43 for creating and adjusting scores of characteristic values in customer profiles**) and weighting the scores (**see Column 10, Lines 39-40, Column 11, Lines 16-29 and Column 13, Lines 40-54**).

Herz further teaches determining an overall user preference score for the plurality of tracked viewing parameters based on a linear combination of the weighted scores associated with each of the plurality of tracked viewing parameters for the user (**see Column 19, Line 5 through Column 21, Line 62 for using the weighted scores to determine a overall user preference score for the plurality of tracked viewing parameters based on a linear combination of the weighted scores in the customer profiles associated with each of the tracked characteristics for the user**). *The Examiner further notes Column 29, Line 29 through Column 34, Line 11 for how customer profile characteristic values are continually updated based on the passive viewing of television program by a user, which includes additionally weighting the scores.*

Herz discloses receiving user input requesting television functionality subsequent to determining the overall user preference score, where the television functionality comprises tuning to a user identified television service (**see Column 29, Line 39 through column 30, Line 19 for using passive feedback to determine viewing habits of the viewer and updating customer profiles, which tracks what programs the user has selected/tuned**), where the user identified television service corresponds to at least one of the plurality of viewing parameters (**see Column 30, Line 49 through**

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Column 34, Line 11 for updating customer profiles prior to calculating the agreement matrix, wherein Column 31, Line 1 through Column 33, Line 32 discloses the different characteristic variables associated with each selected movie "P", therefore corresponding to one of the viewing parameters).

Herz also discloses providing the user with a result that is responsive to the user input and to the overall user preference score (**see Column 46, Lines 43-59 for presenting a program guide of selected programs based on the selected movie "P" and the overall user preference score calculating using the agreement matrix).**

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the preference determination system, as taught by Ukai, using the agreement matrix calculation technique, as taught by Herz, for the purpose of providing video programs that have the most appeal to the customer (**see Column 9, Lines 50-51 of Herz).**

Herz, in the combination of Ukai and Herz, fails to teach that the result comprises not tuning to the user identified television service. Herz only discusses calculating an agreement matrix based on the user's viewing habits and using the agreement matrix to determine a list of programs to present to the viewer (**in the form of an electronic program guide**) for tuning (**see Column 46, Lines 43-59**). Herz is silent if a selected program that is recorded in the viewing habits (**which may not have been selected for a long period of time**) is excluded from the list of programs presented based on the calculated agreement matrix.

Maissel discloses not tuning to a user identified television service/channel by excluding channels (**from a program guide that allows the viewer to tune to a channel**) from a customer's profile, wherein the channels have been viewed, but not viewed for a specified period of time (**see Column 17, Line 5 through Column 18, Line 28**).

At the time the invention was made, it would have been obvious for a person of ordinary skill in the art to modify the passive creation/updating of customer profiles, as taught by Ukai and Herz, using the surfing detection functionality, as taught by Maissel, for the purpose of providing an improved electronic program guide for use in a television system (**see Column 2, Lines 55-56 of Maissel**).

Referring to claim 2, Ukai discloses that the user preference is determined based on a duration that service characterized by one or more of the plurality of viewing parameters is presented to the user (**see Figures 4 and 6 for determining the user's preference by using a duration (view time period 404) that a program has been viewed**).

Referring to claim 3, Ukai discloses that the user preference is determined based on a frequency that a service characterized by one or more of the plurality of viewing parameters is presented to the user (**see Figure 6 for determining a user preference 604 based on a number of programs 603 viewed**).

Referring to claim 4, Ukai discloses that the user preference is determined based on a duration and a frequency that a service characterized by one or more of the plurality of viewing parameters is presented to the user (**see the rejection of claim 2 for determining based on a duration and the rejection of claim 3 for determining based on a frequency**).

Referring to claim 5, Ukai discloses that the user preference is for a service (**see the rejection of claim 1 and note that the service is the broadcasting of television program for viewer selection**).

Referring to claim 6, Herz discloses that the user preference conflicts with another user preference (**see Column 45, Lines 45-47 for user preferences in Equation (25) conflicting if the delta value is large**).

Referring to claim 7, Ukai discloses that the user preference is defined by the user (**see Figure 4 for the user preference being determined by how long the user watches a television program**).

Referring to claim 8, Ukai discloses that the user preference is determined by tracking series that are provided by a digital home communication terminal (**see Figure 1 and Column 4, Lines 8-35 for the user preferences being tracked by a television receiver**).

Referring to claim 9, Ukai discloses that the result is only provided if a preference mode is activated (**see Column 4, Lines 21-53 for determining user preferences only when a user enters a program to be viewed, thereby activating the preference determination process**).

Referring to claim 11, Ukai discloses that the user preference is determined based on user input (**see Column 4, Lines 8-61 for storing user selections made by user input using a remote control device, wherein the selections are used to determine the user preference as described in the rejection of claim 1**). Further note Column 14, Lines 10-34 of Herz for also entering preferences to viewing parameters.

Referring to claim 12, Ukai discloses that the user input indicates a preference for a viewing parameter (**see Column 4, Lines 8-61 for the user entering selections (preferences) for television programs using a remote control device, wherein the time the program selected was viewed is the preference for the viewing parameter (the television program)**). Further note Column 14, Lines 10-34 of Herz for also entering preferences to viewing parameters.

Referring to claim 13, Ukai discloses that the user input indicates a preference against one or more of the plurality of viewing parameters (**see Figure 5 for the user**

viewing a program for a first time and second time, thereby showing entering a first time against a second time).

Referring to claim 14, see the rejection of claim 13 and further note that the user can selection multiple programs **(see Figure 5 and Column 5, Lines 50-55 for continually updating the view score table 500).**

Referring to claim 15, Ukai discloses that a preference tracking database is used to keep track of the user preference **(see Figure 5 and Column 5, Lines 50-55 for updating the view score table 500).**

Referring to claim 16, see the rejection of claim 15 and note that the database keeps track of more than one user preference.

Referring to claims 20-22, Ukai discloses that the overall user preference score for the plurality of tracked viewing parameters changes over time, is revised using statistical analysis and determined using artificial intelligence **(see Figure 5 and Column 5, Lines 40-55 for the view scores being updated and using the data stored in tables 500-700 to artificially determine what programs a viewer may or may not enjoy watching, therefore since the system (*not the user*) determines what programs to present to the viewer, an artificial intelligence system is taught).** Further note that since weighted view measures and mean score calculations

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are determined (**see the rejection of claim 1**), Ukai clearly teaches the use of statistical analysis.

Referring to claim 23, Ukai discloses that the data identifying a user preference is stored in non-volatile memory (**see storage means 108 in Figure 1**).

Referring to claim 24, Ukai discloses that data identifying the user preference is stored within a digital home communication terminal (**see the rejection of claim 23**).

Referring to claims 27-31, see the rejection of claim 116.

Referring to claims 32-35, see Figures 3-6 and Column 5, Lines 11-28 and Column 5, Line 56 through Column 6, Line 20 of Ukai and the rejection of claims 1 and 116.

Referring to claim 116, see the rejection of claim 1 and further note that Ukai teaches at least a first portion of the viewing parameters overlapping in content of a second portion of the viewing parameters (**see the table of Figure 3 for the viewing parameters having a year entry for each program, wherein two programs are illustrated as having the same date, therefore having overlapping content in a first portion (column dedicated to the program X TIME) and a second portion (column dedicated to the program YY INFORMATION STATION)**), wherein the

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viewing parameters comprise a television service (**see Figure 3 for a viewing parameter “X TIME” television program/service**), a type of television service (**see Figure for the viewing parameter “X TIME” being a news (type) television program/service**), a television instance (**see Figure 3 for the television program “X TIME” having a broadcasting mode field**) and a type of television instance (**see Figure 3 for the television program “X TIME” having a type of broadcasting mode, such as Bilingual**). Further note the Examiner’s rebuttal to Applicant’s arguments above.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ukai et al. (U.S. Patent No. 7,096,486) in view of Herz et al. (U.S. Patent No. 5,758,257) in further view of Maissel et al. (U.S. Patent No. 6,637,029) in further view of Gilboy (U.S. Patent No. 5,465,113).

Referring to claim 10, Ukai, Herz and Maissel teach all of the limitations of claim 9, as well as that the preference adaptive mode is activated via a switch located on a remote control device (**see Column 14, Lines 53-59 for activating a preference adaptive mode (*broadcast program selection mode*) based on a selection by the user using a remote control input device**), but fail to teach that the preference adaptive mode is activated via a switch located on a remote control device, **the switch physically separate from a switch corresponding to tuning to a video channel,**

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selecting a program corresponding to a title of the program displayed on a television screen, or powering on and off the DHCT or a television.

Gilboy discloses activating a preference adaptive mode by the user of a user profile switch on a remote control device, wherein the switch is separate from the above listed three switches (**see Figures 1 and 13A and Column 8, Line 65 through Column 9, Line 6**).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the remote control, as taught by Ukai, Herz and Maissel, to include a viewer profile button, as taught by Gilboy, for the purpose of allowing the preferred programming system to select from different viewer profiles on the same television receiving device.

Claims 47-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ukai et al. (U.S. Patent No. 7,096,486) in view of Herz et al. (U.S. Patent No. 5,758,257) in further view of Maissel et al. (U.S. Patent No. 6,637,029) in further view of Gerba et al. (U.S. Patent No. 6,445,398).

Referring to claims 47-48, Ukai, Herz and Maissel disclose all of the claim limitations in claim 1, but fail to teach that the result further comprises prompting a user to provide additional input, wherein the additional input comprises a personal identification number (PIN).

Gerba discloses prompting a user to provide additional input, wherein the additional input comprises a PIN (**see Figure 32C and Column 29, Lines 8-43**).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the TV receiving device, as taught by Ukai, Herz and Maissel, to contain a parental control program, as taught by Gerba, for the purpose of only providing authorized viewers access to his/her television programming.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jason P Salce/
Primary Examiner, Art Unit 2421

Jason P Salce
Primary Examiner
Art Unit 2421

November 17, 2010